

**OPINION
61-166**

November 3, 1961 (OPINION)

PARK DISTRICTS

RE: Increased Levy - Duration of Increase

This is in reply to your letter in which you say that on June 28, 1960, the Carrington Park District voted to increase the park levy by four mills. the question stated on the ballot is as follows:

Shall the Carrington Park District increase the Park levy by four mills making its total levy eight mills on the dollar of the net taxable assessed valuation of the District for the purpose of improving, maintaining and operating its Parks and play grounds."

You advise that one of the railroad companies contends that the increase of the levy must be of a definite nature, such as one year or two years. You then ask if the levy as voted upon under existing statutes would be for one year or more.

The authorization for the increase in levy by park districts is found in subsection 3 of section 57-15-12 of the North Dakota Century Code. It is observed that this subsection is not too explicit or clear as to whether the increase would be for one year or more.

It is further observed that the other excess levies found in chapters 57-15 and 57-17 all seem to indicate that it is necessary to state the number of years during which such excess levy will be made. It is further noted that a limitation in nearly every instance is set forth by statute.

Inasmuch as the subsection in question is unclear, we must resort to the rules adopted in interpreting and construing tax statutes which are not clear. The rule which has been adopted by the North Dakota Courts, and which prevails in nearly every jurisdiction, is that tax statutes are construed strictly against the government and in favor of the citizen. It would apply here. See *Goldberg v. Gray*, 70 N.D. 663, 670 (297 N.W. 124); *Sutherland Statutory Construction*, Third Edition, Volume 3, Sections 6701, 6705 and 6710; *Great Northern Railway Company v. J.T. Severson*, 78 N.D. 610, 618 (50 N.W.2d. 889); *Standard Oil Co. v. State Tax Commissioner*, 71 N.D. 146, 150.

Under the rule stated above, the doubt must be resolved in favor of those being taxed. Also the power to impose taxes should not be extended beyond the clear meaning of the statutes.

Therefore, applying these rules of construction, it is our opinion that the increase in the park levy by the election of June 28, 1960, is for one year only. Correspondingly, another election must be held before the increased tax levy may be made.

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Attorney General